

Notice of Allowability

Application No.

10/825,419

Examiner

Thong Q. Nguyen

Applicant(s)

STEINER, CARL

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendments of 5/30/06 and 8/23/06.
2. ☒ The allowed claim(s) is/are 1-2 and 6-11 which are renumbered as claims 1-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 5/30/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

THONG NGUYEN
PRIMARY EXAMINER

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendments filed on 5/30/06 and 8/23/06.

It is noted that in the amendment of 5/30/06, applicant has amended the specification and the claims. Regarding to the claims, applicant has amended claim 1, canceled claims 3-5 and added a new independent claim, i.e., claim 11, into the application. However, the amendment filed on 5/30/06 is non compliant because the amendment to claim 1 and the new claim 11 as listed in the amendment of 5/30/06 do not comply with the requirement of 35 CFR 1.121.

In response to the Notice of non-compliant mailed by the Office on 8/16/06, applicant has filed an amendment on 8/23/06 in which applicant has filed a list of claims contained the changes to the claims. As stated in the amendment, claim 1 is amended, claims 3-5 were canceled and claim 11 is newly-added. The pending claims 1-2, and 6-11 are examined in this Office action.

Specification

2. The lengthy specification which was amended by the amendment of 5/30/06 has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

3. The objection to claim 1 as set forth in the previous Office action is now withdrawn due to the amendments to the claim provided in the amendment of 8/23/06.

Claim Rejections - 35 USC § 112

4. The rejection of claims 4-5 under 35 U.S.C. 112, second paragraph, as set forth in the previous Office action is overcome by the cancellation of these two claims as provided in the amendment of 8/23/06.

Response to Arguments

5. The amendments to claim 1 as provided in the amendment of 8/23/06 and applicant's arguments filed on 5/30/06 have been fully considered and sufficient to overcome the rejections of the claims over the art of record.

Allowable Subject Matter

6. Claims 1-2 and 6-11 are allowed.

7. The following is an examiner's statement of reasons for allowance:

The imaging optical device as recited in the independent claim 1 and the binocular as recited in the independent claim 11 are patentable with respect to the prior art, in particular, the U.S. Patent Nos. 5,859,733; 6,317,199 and 5,235,458 by the limitations related to the adjusting device and the detection device as recited in each of claims 1 and 11. It is noted that while the use of a focusing knob for moving lenses in two lens barrels of a binocular is disclosed in the Patent No. 5,235,458, and the use of an adjusting device for supporting and moving an optical lens for varying the distance between the lens and other lens

along an optical path and a detection device for detecting the position of the adjusting device is known to one skilled in the art as can be seen in each of the Patent Nos. 5,859,733 and 6,317,199; however, the cited art does not disclose a binocular having a focusing wheel for moving optical components to adjust the focusing setting and a detection device having a potentiometer having a wiper rigidly connected to an adjusting bar attached with optical components and a wiper contact fixed to the casing of the device (or binocular) for detecting the current position of the focusing wheel as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

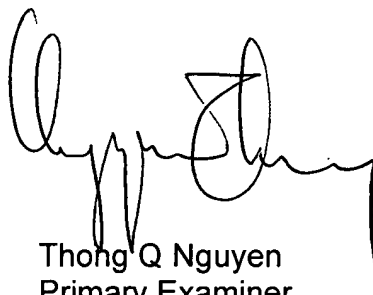
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thong Q. Nguyen', is positioned above the printed name and title.

Thong Q Nguyen
Primary Examiner
Art Unit 2872
